

STATE OF MINNESOTA)	<u>SEALED BY ORDER OF THE COURT</u>
)	
)	Case No. 21-mj-255 DTS
COUNTY OF HENNEPIN)	

AFFIDAVIT IN SUPPORT OF COMPLAINT

Special Agent Bryan Lervoog, being duly sworn, states the following:

INTRODUCTION

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and have been so employed since May 2014. In my capacity as an ATF agent, my responsibilities include, but are not limited to, investigating firearms violations under Title 18 of the United States Code. During these investigations, I have utilized many investigative methods to de-briefing cooperating sources, conducting surveillance and serving search warrants. The facts and information contained in this affidavit are based upon my own investigation and observations and those of other agents and law enforcement officers involved in the investigation. All observations referenced below that were not made by me were related to me by the persons who made such observations. This affidavit contains information necessary to support probable cause for the attached Criminal Complaint. It is not intended to include each and every fact and matter observed by me or known to the Government.

2. The facts and information contained in this affidavit are based upon my personal knowledge and the investigation and observations of and information obtained from other law enforcement officers/agents involved in the investigation. This affidavit contains information necessary to support probable cause for the requested Criminal Complaint charging Defendant Thomas Wilder MOSELEY with violations of 18, United States Code, Section 922(g)(3), possession of firearms and ammunition in and affecting interstate commerce while being an unlawful user of and addicted to controlled substances. It is not intended to include each and every fact and matter observed by me or known to those involved in the law enforcement response.

PROBABLE CAUSE

Background

3. On Monday, May 25, 2020, George Floyd died while in the custody of the Minneapolis Police Department near the intersection of 38th Street and Chicago Avenue. Mr. Floyd died after three officers pinned him to the ground for several minutes, while a fourth officer kept the growing crowd of bystanders at bay. At least one bystander filmed the incident, and shortly after it occurred, posted a video on social media that soon went viral.

4. Many peaceful protests occurred in the aftermath of Mr. Floyd's death. However, the Cities of Minneapolis and St. Paul, and some surrounding communities, endured several nights of violence and destruction as well;

numerous individuals vandalized and looted local businesses, and destroyed buildings, vehicles, and other property through arson, smashing doors and windows, and throwing objects. The Minneapolis neighborhood surrounding the East Lake Street/Hiawatha intersection, near the site of the police's encounter with Mr. Floyd, was particularly hard hit, with numerous business in the neighborhood looted and partially destroyed by vandalism and arson. On the third night following Mr. Floyd's death, Minneapolis Third Precinct police building, which is also located in the area, was overrun and heavily damaged by fire.

5. Between May 29 and June 3, all four officers who were involved in the incident leading to Mr. Floyd's death were charged in Hennepin County District Court with variations of manslaughter, murder, and aiding and abetting. Protests and demonstrations have continued since then. While the majority have been peaceful, some individuals have continued to engage in criminal acts.

6. On August 15, 2020, there was a protest at the Minneapolis Police Department's 5th Precinct building, which had been secured but remained heavily damaged as a result of the May riots. Approximately 50 people, all dressed in black, converged on the precinct, and the event became violent and destructive. Individuals who were present threw rocks and other objects at the building, breaking windows. They spray painted the outside of the building,

and also used paint to obscure the video surveillance cameras. Mortar-type fireworks were fired at the building and at officers stationed on the roof. In reviewing video surveillance, an MPD investigator was able to positively identify MOSELEY as one of the individuals who was spray painting the front windows of the precinct. The building sustained several thousand dollars' worth of damages a result of the incident.

MOSELEY'S Possession of Firearms, Ammunition, and Controlled Substances

7. On October 14, 2020, the MPD investigator issued a "PC pickup" for MOSELEY based on felony damage to property at the 5th Precinct on August 15. A PC pickup is an alert that officers should arrest a person based on probable cause that they have committed a crime. The investigator also obtained a search warrant for MOSELEY's residence in Blaine, Minnesota, to search for evidence of the August 15 incident, including the T-Shirt that MOSELEY was wearing in the surveillance video.

8. The next day, October 15, Hennepin County Sheriff's Deputies observed MOSELEY within the Hennepin County Government Center, where protesters had gathered because of a court appearance for the officers charged in the death of Mr. Floyd. The deputies were aware of the PC pickup that had been issued by Minneapolis Police, and they arrested MOSELEY inside the Government Center. At the time of his arrest, MOSELEY was carrying a

loaded handgun. He was subsequently charged with possessing a dangerous weapon within a courthouse complex, a felony.

9. Following MOSELEY'S arrest at the Government Center, Minneapolis Police executed the warrant at his residence, an apartment he shared with his wife in Blaine. Once inside, officers immediately observed several firearms, suspected illegal controlled substances, and drug paraphernalia. Officers obtained a follow-up warrant to search and seize the drugs and firearms. Among other items, they seized:

- a. Remington 770 rifle with scope and side saddle (a part that stores ammunition and attaches to the firearm for easy re-loading), live ammunition and sling in a case;
- b. Kel-Tec P-11 9MM handgun with a laser attachment, 2 loaded magazines and 1 empty magazine in a holster;
- c. Over 1,400 rounds of live ammunition of various types including rifle rounds and handgun rounds;
- d. Five empty gun boxes related to firearms not found in the residence as well as holsters and a gun cleaning kit;
- e. A jar of an unknown brown substance (preliminary test indicates it is 34 grams of MDMA but the substance requires further testing to confirm);
- f. Several bottles and vials containing suspected marijuana oil/wax and three suspected marijuana vape pens (not tested);

- g. Approximately 96 grams of marijuana spread throughout several jars and bottles containing loose marijuana as well as marijuana cigarettes (“joints”); and
- h. A glass smoking pipe.

10. That same day following MOSELEY’S arrest, MPD officers located MOSELEY’S vehicle, a blue 2005 Toyota Tacoma bearing Michigan license plate DWB6115, parked downtown Minneapolis near the Government Center, towed it to the police impound lot and obtained a search warrant for the vehicle. They searched the vehicle the next day. Among other things, officers recovered five guns, large amounts of ammunition, controlled substances, and several items indicative of participation in rioting, to include:

- a. A backpack containing a Kel-Tec 9 mm rifle, loaded and unloaded magazines (including one extended magazine), marijuana, a ballistic panel, a Go Pro, and books;
- b. In the mid-console storage compartment, a Taurus 6-shot revolver, .38 caliber, along with several individual packages of marijuana and a container with what appeared to be psychedelic mushrooms (later tested and confirmed to be approximately 2.5 grams of suspected psilocin, a component of psychedelic mushrooms);
- c. Three more guns in the back seat, to include a Ruger AR 5.556 rifle in a black case with 5 magazines, a Savage Arms shotgun 775 serial with shells in a case, and a Smith and Wesson 9MM in a black bag that also contained ammunition

and speed loaders. Also in the back seat, officers found gas masks, a spray paint can, and a bullhorn/megaphone.

- d. In a storage cubby underneath the steering wheel, two empty jars, a glass pipe, a jar containing white powder, and marijuana joints. The jar of white powder was later tested and found to contain approximately .4 grams of cocaine.
- e. Underneath the driver's seat, officers found a hatchet and a crowbar.

MOSELEY'S Illegal Drug Use

11. Firearm trace reports show that MOSELEY purchased or acquired three of the seized firearms in Michigan. Based on my training and experience, I know that most if not all of the seized firearms and ammunition were manufactured outside the state of Minnesota.

12. While investigating MOSELEY for criminal damage to property at the 5th Precinct, MPD officers conducted surveillance of MOSELEY, to include physical surveillance and monitoring his public social media accounts, and observed him smoking marijuana on several occasions. These include:

- a. On September 29, 2020, an MPD investigator was conducting physical surveillance of MOSELEY at Lake Phalen in St. Paul. The officer, standing approximately 50-60 feet away, could observe MOSELEY smoking and could smell the distinct odor of burning marijuana. The investigator took the below photograph of MOSELEY and his companion.



- b. On October 5, MOSELEY posted a photo of himself on his public Facebook account, in which he appears to be smoking a marijuana joint. The item is similar to the marijuana joints that were recovered from his residence and vehicle on October 15 and 16.



- c. During protests in downtown Minneapolis on the afternoon of October 7, Minneapolis investigators observed MOSELEY in and around the Hennepin County Government Center. They locate his vehicle, the blue 2005 Toyota Tacoma with Michigan plates, parked just a few blocks away on the street, and observed what appeared to be a long gun case in the back seat. Surveillance video captured MOSELEY entering his truck around 5:00 p.m., sitting in the driver's seat, and smoking what appears to be a marijuana pipe. MOSELEY then drove to the area of 38th Street and Chicago and joined a crowd gathered there around 5:30 p.m.
- d. On October 8, 2020, two undercover officers observed MOSELEY rolling a suspected marijuana joint on the front steps at 1721 University Avenue Northeast, Minneapolis, a location associated with MOSELEY.
- e. Following MOSELEY's arrest at the Hennepin County Government Center on October 15, 2020, he was booked and held at the Hennepin County jail, where personnel ordered that he be given a bottom bunk for the first seven (7) days due to "unknown medical" precautions and drug withdrawal symptoms.

13. In approximately mid-September, 2020, MOSELEY posted the following message on his public Facebook account:



Tom Moseley is with Tom Moseley in America

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More kkkops die from HEART ATTACKS than any other cause, almost COMBINED. Being a kkkop isn't even anywhere NEAR the 10 deadliest professions in America. So YES. The ONLY "good kkkop" is a fuckin dead one. Fuck you if you disagree



Like

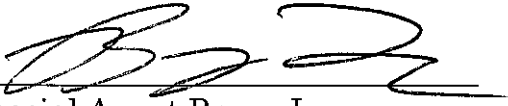
Comment

Share

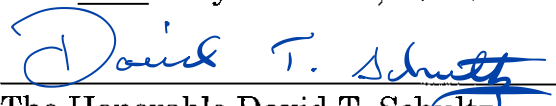
CONCLUSION

14. Based on the foregoing, Your Affiant believes there is probable cause that MOSELEY violated 18 U.S.C. § 922(g)(3), by possessing firearms and ammunition in and affecting interstate and foreign commerce while being an unlawful user of, and addicted to, controlled substances.

Further your Affiant sayeth not.


Special Agent Bryan Lervoog
Bureau of Alcohol, Tobacco, Firearms, and
Explosives

SUBSCRIBED and SWORN before me
by reliable electronic means (FaceTime and
email) pursuant to Fed. R. Crim. P. 41(d)(3)
this 24th day of March, 2021.


The Honorable David T. Schultz
United States Magistrate Judge